

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO. 3440 OF 2015

BALAJI BABURAO SAGAR. **... PETITIONER.**

VERSUS

STATE OF MAHARASHTRA
AND OTHERS. **... RESPONDENTS.**

...

Advocate for Petitioner : Mr.Deshpande Abhishek C.
AGP for Respondents/State: Mr.S.K. Kadam.
Advocate for Respondents 4 & 5: Mr.Salvi Pramod A.

...

CORAM : S.S. SHINDE & P.R. BORA, JJ.

Dated: 17th DECEMBER, 2015.

PER COURT :-

1. Rule. Rule is made returnable forthwith. By consent of the parties taken up for final hearing.

3. It is the case of the petitioner that, he was appointed on 31st August, 2002. Thereafter, he was appointed on the post of Head Clerk on permanent basis. His services were confirmed on 19th July, 2004. It is further case of the petitioner that, he was taking education from the year,

2002-05 in respondent No.5 college in Arts faculty with permission of the management. Admission was taken and in pursuance to it, he was prosecuting studies. It is further case of the petitioner that he did not receive any salary / remuneration from the respondent Nos.4 and 5 during the period when he was taking education. On 13th September, 2011, a complaint was filed by one Shankar Ambhore. On the basis of the allegations in the said complaint, notice was issued to the respondents No.4 and 5 seeking response about the allegations in the complaint. On 13th October, 2011, respondent No.5 filed detailed reply. By the impugned order dated 27th March, 2012 the Joint Director of Higher Education, Aurangabad Region, Aurangabad directed respondents No.4 and 5 not to include name of the petitioner in the salary bill from March, 2012. The learned Counsel for the petitioner submits that the amount of scholarship which was received from the respondents – State authorities, has already been returned back. He has tendered across the Bar additional affidavit of the petitioner in the nature of an undertaking that, the petitioner is ready to forgo the claim of the salary for the period from April, 2012 till date subject to directions to the respondents to

regularly pay the salary of the petitioner henceforth as admissible to the post of Head Clerk.

4. In pursuance to the notices issued to the respondents, the respondents have filed replies. We have considered the submissions of the learned Counsel for the petitioner and learned Counsel for respective respondents. The fact that the petitioner was appointed on the post of Head Clerk is not in dispute. Status of permanency was granted, nothing is placed on record showing that during the passage of his service, there were any other complaints except the complaint filed by one Shankar Ambhore. As already observed, it is submitted by the Counsel for the petitioner that, the scholarship amount which was received by the petitioner while prosecuting study during the period from 2002-05 has been returned back to the respondents / authorities; and also the fact that, he did not receive any salary from the respondent / management and further the petitioner has filed undertaking that he is ready to forgo the salary till the date.

5. In the light of above, we are inclined to allow the

petition. Accordingly, the impugned order dated 27th March, 2012 issued by the respondent No.3 is quashed and set aside. We direct the respondents / authorities to include the name of the petitioner in the salary bills and henceforth disburse the amount of salary from 1st January, 2016 regularly to the petitioner subject to fulfillment of other regular requirements / conditions, Petition is partly allowed and stands disposed of. Rule is made absolute in the above terms with no order as to costs.

(P.R. BORA, J.)

(S.S. SHINDE, J.)